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15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
16 IN AND FOR THE COUNTY OF YAVAPAI

17 STATE OF ARIZONA,

18 Plaintiff,

19 vs.

20 STEVEN CARROLL DEMOCKER,

21 Defendant.

) No. P1300CR20081339

) Div. 6

) **DEFENDANT'S REPLY IN**
) **SUPPORT OF MOTION TO**
) **EXTEND TIME FOR**
) **ADDITIONAL DISCLOSURE**
) **PURSUANT TO 15.6(D)**

22 The Court should grant the Defendant's Motion to Extend Time for Additional
23 Disclosure pursuant to Rule 15.6(d) because the requirements of the Rule have been
24 met, the State had prior notice of this material disclosed in an alternative format on
25 September 22, 2009 as WTH00001-54 and because the disclosure of the information in
26
27
28

SUPERIOR COURT
COUNTY OF YAVAPAI, ARIZONA
2010 SEP 13 AM 10:10
JEANNE HICKS, CLERK
BY: B. Chamberlain

1 this format was made simultaneously to the State and the defense by a previously
2 noticed witness.¹

3 The State's Objection does not deny that it received the documents disclosed in
4 the Tenth Supplemental Disclosure on the same date as the defense received them from
5 Dr. Curtis James, nor does it deny that it has already interviewed Dr. James. In fact, the
6 State asked Dr. James to provide additional data in its interview of him. Finally, the
7 State does not deny that weather records were previously disclosed by the defense in
8 one format and that the current records simply provide similar data in a different format.
9 This new format for the information was disclosed simultaneously by the previously
10 disclosed witness to both the State and the defense.

11 The State's response also falsely represents the testimony of Charlotte DeMocker
12 as being that it rained "hours before" the homicide. In fact, what Ms. DeMocker
13 testified and as text records reveal, the rain occurred the day before on July 1.

14 Q. What were you and your mother texting about?

15 A. I had just gotten a new job. She asked about how my training was, and she asked
16 about the rain that we had gotten *one day previous*. Transcript June 4, page 39.

17 Weather records from a weather station right very near Ms. Kennedy's home
18 (approximately one-half mile to the West) and operated by Dr. Curtis James reveal that
19 there was no measurable rain on the date of the homicide. This weather station is
20 registered at KAZPRESC10. Dr. James is a professor of meteorology at Embry Riddle
21 University. Weather records were disclosed to the State on September of 2009, and are
22 simply being provided now in an alterative format, because they were so provided by
23 the previously disclosed witness. The State is correct that this issue has been a
24 longstanding one, with the State being on notice that the defense intended to offer this
25

26 ¹ The defense's Objection was Federal Expressed to the State on 8/23/10. Pursuant to Arizona Rules of Criminal
27 Procedure 1.3a and 16.1, the State's response was due on September 7 and was not timely filed.

1 witness and records to support the fact that there was no rain in the area on July 1. This
2 evidence is consistent with text messages, the testimony of Charlotte DeMocker,
3 photographs already admitted into evidence and weather records disclosed to the State.

4 The State also late disclosed weather records from NOAA on August 24, 2010.
5 The State filed a Motion to Extend Time for Additional Disclosure Re the 75th
6 Supplemental Disclosure. The State did not request permission to use these records in
7 its Motion to Extend Time. The defense filed an objection based on the items
8 specifically mention in the State's motion. On September 8, the State filed its Response
9 to the Defense's Objection and mentioned these late disclosed documents for the first
10 time. The State should not be permitted to use these documents in the absence of a
11 proper motion and opportunity for Mr. DeMocker to object.

12 For this reason, the Court should grant the defense's Motion to Extend Time for
13 Additional Disclosure.

14
15 DATED this 13th day of September, 2010.

16
17 By: 

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27 **ORIGINAL** of the foregoing hand delivered for filing this
28 13th day of September, 2010, with:

1 Jeanne Hicks
2 Clerk of the Court
3 Yavapai County Superior Court
4 120 S. Cortez
5 Prescott, AZ 86303

6 **COPIES** of the foregoing hand delivered this
7 13th day of September, 2010, to:

8 The Hon. Warren R. Darrow
9 Judge Pro Tem B
10 120 S. Cortez
11 Prescott, AZ 86303

12 Joseph C. Butner, Esq.
13 Jeffrey Paupore, Esq.
14 Prescott Courthouse basket

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